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March 6, 2023

VIA ECF

Honorable Gary R. Brown
United States Judge for the
Eastern District of New York
100 Federal Plaza, Courtroom 840
Central Islip, New York 11722

Re: Leatha Adams v. Quality King Distributors Inc.
Docket No.: 23-cv-01145 (GRB) (ST)

Dear Judge Brown:

As the attorney for the Plaintiff, Leatha Adams, I present this letter in opposition to the Defendant's request for this dismissal of this action pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Preliminary, the following facts can be agreed upon between the litigants. Juan Bonilla was an employee of the Defendant Quality King Distributors, Inc (hereinafter referred to as "QKD") for approximately 10 years until his abrupt resignation in November of 2021. During his employment at QKD, Mr. Bonilla utilized the social security number of Leatha Adams. (Letter from QKD attesting to Juan Bonilla's employment and fraudulent use of Leatha Adams social security number annexed hereto) In connection with his employment with QKD, Mr. Bonilla and QKD both provided information that was recorded on Form I-9. In section 1 of Form I-9, Mr. Bonilla provided his name, date of birth, immigration status and documents attesting to his identity and his right to work in the United States. In section 2 of Form I-9, QKD listed the documents provided by Mr. Bonilla and attested that said documents on their face appeared to be genuine. That QKD provided a W-2 Form to both the Internal Revenue Service and the Social Security Administration for each of the ten years that Juan Bonilla worked for QKD.

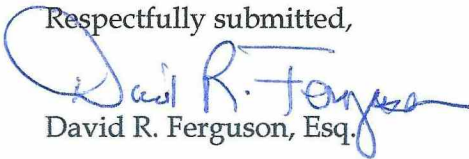
It is the position of the Plaintiff that QKD either had actual knowledge or constructive knowledge that Juan Bonilla was utilizing fraudulent documents and information to procure ten years of employment. That QKD was negligence in its inspection of the documents provided by Mr. Bonilla and was negligence in their preparation of both the I-9 and the W-2 forms. As stated above it is agreed between the parties that QKD submitted a W-2 Form on Mr. Bonilla's behalf to the Social Administration for each of the ten years Mr. Bonilla was employed with QKD. Notwithstanding, the Social Security Administration has no record of any social security taxes withheld from the earnings of Juan Bonilla while employed at QKD and concurrently wrongfully using the social security number of Leatha Adams. (Plaintiff's Social Security Statement Letter from the Social Security Administration annexed hereto) QKD had constructive knowledge of Mr. Bonilla's fraud and said fraud would have been disclosed by a

reasonable inquiry, investigation or internal I-9 audit. And by reason of QKD negligence, the Plaintiff sustained damages proximately caused by said negligence.

It should be noted that counsel for the Plaintiff is currently not in a position to comment on the nature and quality of the documents submitted by Juan Bonilla to QKD that attested to his identity, social security number and his right to work in the United States in that said documents and information is in the exclusive possession of the Defendant. Lastly, Plaintiff's claim for recompense is not baseless and frivolous. That Defendant's application for dismissal is premature and not supported by the facts.

Having said the above, counsel for the Plaintiff request the Court to deny the dismissal of this action together with what and further relief that may be appropriate.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "David R. Ferguson". The signature is stylized with a large initial "D" and a long, sweeping underline.

David R. Ferguson, Esq.

cc: All duly noted counsel of record (Via ECF)



December 14th, 2021

To Whom It May Concern,

It has come to our attention that Juan Carlos Bonilla (SSN: [REDACTED]) has been using a false Social Security Number throughout the duration of his employment from March 2011 until he resigned in November 2021.

We have no record of Ms. Adams ever working for Quality King Distributors, Inc.

If any additional information is required, please feel free to contact me at (631) 439 – 2069 OR pmatera@gkd.com.

Sincerely,

A handwritten signature in cursive script that reads 'Phyllis Calderone'.

Phyllis Calderone
Payroll/Benefits Manager





Your Social Security Statement

LEATHA ADAMS

March 6, 2023

Retirement Benefits

We are not giving you estimates because our records show that you are already receiving or have qualified for benefits.

If the benefits are based on your own record, you received a notice of your benefit amount when you first qualified. Each year, you get an updated notice showing the annual cost-of-living increase. If you continue working while qualified for benefits and those earnings increase your benefit amount, we will send you additional notices of the new amounts. And when you die, we will base benefit payments for your survivors on your benefit amount.

If you are getting benefits as the spouse or the widow or widower of someone else, we must look at both records to determine how much you are entitled to. Please call us at **1-800-772-1213** or contact your local Social Security office so that we can discuss this with you.

Disability Benefits

We are not giving you estimates because our records show that you are already receiving or have qualified for benefits.

Survivors Benefits

We are not giving you estimates because our records show that you are already receiving or have qualified for benefits.

What you can do with a **my Social Security** account if you are receiving benefits:

- Set up or change direct deposit
- Get a Social Security 1099 (SSA-1099) form
- Opt out of mailed notices for those available online
- Print a benefit verification letter
- Change your address

Medicare

Medicare is the federal health insurance program for people:

- age 65 and older,
- under 65 with certain disabilities, and
- of any age with End-Stage Renal Disease (ESRD) (permanent kidney failure requiring dialysis or a kidney transplant).

For more information about Medicare, visit [medicare.gov](https://www.medicare.gov) or [ssa.gov/medicare](https://www.ssa.gov/medicare) or call **1-800-MEDICARE (1-800-633-4227)** (TTY **1-877-486-2048**).

Earnings Record

Review your earnings history below to ensure it is accurate because we base your future benefits on our record of your earnings. There's a limit to the amount of earnings you pay Social Security taxes on each year. Earnings above the limit do not appear on your earnings record. We have combined your earlier years of earnings below, but you can view your complete earnings record online with [my Social Security](#). If you find an error, view your full earnings record online and call 1-800-772-1213.

Work Year	Earnings Taxed for Social Security	Earnings Taxed for Medicare (began 1966)
1981-1990	\$42,692	\$42,692
1991-2000	\$3,253	\$3,253
2001-2005	\$39,023	\$39,023
2006	\$6,426	\$6,426
2007	\$0	\$0
2008	\$0	\$0
2009	\$0	\$0
2010	\$0	\$0
2011	\$0	\$0
2012	\$0	\$0
2013	\$0	\$0
2014	\$0	\$0
2015	\$0	\$0
2016	\$0	\$0
2017	\$0	\$0
2018	\$0	\$0
2019	\$0	\$0
2020	\$0	\$0
2021	\$0	\$0
2022	Not yet recorded	Not yet recorded

Taxes Paid

Total estimated Social Security and Medicare taxes paid over your working career based on your Earnings Record:

Social Security taxes

You paid: \$8,301

Employer(s): \$2,676

Medicare taxes

You paid: \$1,958

Employer(s): \$643

Earnings Not Covered by Social Security

You may also have earnings from work not covered by Social Security, where you did not pay Social Security taxes. This work might have been for federal, state, or local government or in a foreign country. If you participate in a retirement plan or receive a pension based on work for which you did not pay Social Security tax, it could lower your benefits. Learn more at [ssa.gov/gpo-wep](#).

Important Things to Know about Your Social Security Benefits

- Social Security benefits are not intended to be your only source of retirement income. You may need other savings, investments, pensions, or retirement accounts to make sure you have enough money when you retire.
- You need 40 credits of work (at least 10 years) to qualify for retirement benefits. The amount of your benefit is based on your highest 35 years of earnings. If you have fewer than 35 years of earnings, years without work count as 0 and may reduce your benefit amount.
- To keep up with inflation, benefits are adjusted through "cost of living adjustments."
- If you get retirement or disability benefits, your spouse and children also may qualify for benefits.
- If you and your spouse both work, use the [my Social Security Retirement Calculator](#) to estimate spousal benefits.
- If you are divorced and were married for 10 years, you may be able to claim benefits on your ex-spouse's record. If your ex-spouse receives benefits on your record, that does not affect your or your current spouse's benefit amounts.
- Learn more about benefits for you and your family at [ssa.gov/benefits/retirement/planner/applying7.html](#).
- The *Statement* is updated annually. It is available online, or by mail upon request.